

IN THE HIGH COURT OF TRIPURA
A G A R T A L A
CRP 16 of 2020

Sri Jutan Sarkar

..... Petitioner(s)

- V e r s u s -

The State of Tripura & Others

..... Respondent(s)

For Petitioner(s) : Mr. P. Saha, Adv.

For Respondent(s) : Mr. D. Bhattacharya, G.A.

Date of delivery of Judgment & Order : 28.02.2020

Whether fit for reporting : YES

BEFORE
HON'BLE MR. JUSTICE S. TALAPATRA

JUDGMENT & ORDER(Oral)

Heard Mr. P. Saha, learned counsel appearing for the petitioner as well as Mr. D. Bhattacharya, learned G.A. appearing for the respondents.

2. By means of this petition, filed under Article 227 of the Constitution of India, the petitioner has challenged the appellate order dated 06.06.2019 passed in Case No.F/9/TR-01-AB-1637/SDFO Sadar/For/2018-19/18346-386 dated 13.03.2019 by upholding the order of the authorised officer for confiscation of the vehicle bearing No.TR-01-AB-1637 (Mahindra Supro Maxi Truck). The facts are substantially uncontroverted. The said vehicle had been seized by the competent forest officer and the proceeding for confiscation was drawn up and it commenced under Section 52(A)(2) of the Indian Forest Act, as amended by and added by Tripura (2nd Amendment) Act, 1986. The order of

initiating confiscation as issued by the Sub-Divisional Forest Officer, Sadar under No.F.7-9/TR01-AB-1637/SDFO -Sadar/For/2018-19/16623-25 dated 16.02.2019 and the order for confiscation as issued under the order dated 13.03.2019 under No.F.7-9/TR01-AB-1637/SDFO-Sadar/For/2018-19/18346-386 were challenged under a purported appeal before the Principal Chief Conservator of Forest, Tripura. The Principal Chief Conservator of Forest, acting as the appellate authority, has confirmed the order of confiscation by the impugned order dated 06.06.2019 delivered under reference No.F.22(11)/Trtl/Proceeding Case/For-2018/7980-983. The petitioner has challenged that order as well in this petition.

3. It appears that the Principal Chief Conservator of Forest, Tripura had no authority to entertain any appeal. The said order of confiscation as stated can only be challenged before the District Judge of the concerned district who has the jurisdiction to decide the legality and sustainability of the order of confiscation in terms of Section 52(A)(5) of the Indian Forest (Tripura 2nd Amendment) Act, 1986. For purpose of reference, the said provision is extracted herein below :

(5) Any persons aggrieved by an order passed under sub-sections(1),(2) or (4) may within thirty days from the date of communication to him of such order, appear to the District Court having jurisdiction over the area in which the property has been seized and the District Court shall after giving an opportunity to the parties to be heard; pass such order as it may think fit and the order of the District Court so passed shall be final. Where an order of confiscation of any property passed under sub-section (1) or sub-section (2) or sub-section (4) has become final in respect of the whole or any portion of such property; such property or the portion thereof; as the case may be shall vest in the State Government free from all encumbrances."

4. Mr. D. Bhattacharya, learned G.A. appearing for the respondents has fairly acceded to the said position of law that the Principal Chief Conservator of Forest cannot exercise the power of the appellate authority in respect of the order of confiscation that has been passed by the authorised officer. The jurisdiction lies only with the District Judge of

the concerned area. Against the order of confiscation, the appeal, therefore can lie before the District Judge having the jurisdiction over that area within which the property has been seized. Such appeal is supposed to be filed within a period of thirty days. But the petitioner did not file such appeal to the District Judge of the concerned jurisdiction, but had filed the same to the Principal Chief Conservator of Forest who is not authorised by law to act as the appellate authority. Accordingly, the impugned order dated 06.06.2019 [Annexure-9 to the writ petition] stands set aside and quashed. If the appeal is filed by the petitioner to the District Judge of the competent jurisdiction within a period of fifteen days from the day of receiving a copy of this order, the petitioner will not be required to file a petition for condonation of delay as the petitioner has wasted a substantial time by approaching the Principal Chief Conservator of Forest, Tripura.

It is made absolutely clear that if the appeal is not filed within fifteen days, the petitioner would be governed by the rules for filing an appeal and in that event, the consequential order might be passed by the authorised officer. Till filing of the appeal within the stipulated time, no order for disposal of the vehicle be passed by the authorised officer under whose custody the said vehicle is maintained.

In terms of the above, this petition stands partly allowed.

No order as to costs.

A copy of this order be furnished to the counsel for the parties.

JUDGE